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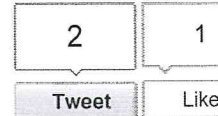
MFI-Miami was mentioned in the LSJ about Hertel's Transfer Tax lawsuit

June 23, 2011 By [Steve Dibert](#) [Leave a Comment](#)

Lawsuit: Fannie, Freddie owe Ingham County millions

Companies should have paid real estate transfer tax, suit says

Matthew Miller, Lansing State Journal



Ingham County Register of Deeds Curtis Hertel Jr. has filed a lawsuit against the mortgage finance giants Fannie Mae and Freddie Mac alleging that they failed to pay millions in real estate transfer taxes on the sale of foreclosed homes.

The crux of the lawsuit, filed Wednesday in Ingham County Circuit Court, is whether the two companies have the right to claim a tax exemption that applies to government entities.

Hertel held a news conference Wednesday in front of a boarded and tagged house on South Grand Avenue, a house he called “just one small example of the pain the foreclosure crisis has caused.”

“I believe the crisis has been further exacerbated by a systematic attempt to avoid state transfer taxes,” he said, adding that the lawsuit was meant “to compel those who I believe gamed the system to pay their fair share.”

The lawsuit also names Bank of America, BAC Home Loans Servicing, Wells Fargo Bank, Countrywide Home Loans Servicing as defendants, along with two Michigan law firms, Trott & Trott and Orlans Associates.

Hertel said it appears that those companies might have assigned mortgages to Fannie Mae and Freddie Mac shortly before a foreclosure was to take place in order to avoid paying the transfer taxes, that there’s a pattern to changes of ownership.

“It usually happens approximately one to two months before the person actually loses their home,” he said.

The law firms worked for Fannie and Freddie and the other companies listed in the suit, Hertel said, and drafted many of the documents that claimed the exemption.

The suit names many defendants, he said, because he’s trying to figure out “where was the decision made to actually file for this exemption?”

But, according to Lawrence White, an economics professor at New York University and co-author of the book “Guaranteed to Fail: Fannie Mae, Freddie Mac and the Debacle of Mortgage Finance,” both historically enjoyed an unusual relationship to the federal government.

The president once had the right to appoint five members of their 18-member boards. They were exempt from state and local income taxes. Each had a line of credit with the federal treasury “to the tune of about \$2.25 billion,” he said.

That changed when the federal government took over the companies in 2008. Both were facing steep losses after backing millions of dollars in questionable loans.

Status questioned

Still, White said, “You would not describe them as a unit of the United States government, because they’re not.” The more common term is government-sponsored enterprises.

“The issue is are they special enough so that one shouldn’t be treating them as your standard corporation that would be subject to the (transfer tax),” he said, “or are they corporate enough that you shouldn’t be treating them as special.”

It was a Florida mortgage fraud investigation firm, MFI-Miami, that brought the issue to Hertel’s attention.

A group of Oakland County attorneys called the Home Defense League, who had worked with MFI-Miami, have taken the case on a contingency basis, 15 percent of whatever the suit manages to bring in. Attorney Brian Parker said that’s half their usual fee.






For now, Hertel has filed the case as an individual. The county Board of Commissioners will decide next week whether to join the suit.

And Hertel said he’s talking to registers of deeds around the state about similar suits. Oakland County already has filed one in federal court.

Hertel estimates that the companies owe the county millions, that they owe the state tens of millions from the transfers in Ingham County alone.

“You start looking at all the counties in the state doing similar things,” he said, “and we’re talking a lot of money.”

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